

BOARD OF SELECTMEN
MINUTES
DECEMBER 17, 2012

Pursuant to notice duly filed with the Town Clerk, a meeting of the Board of Selectmen was held at 6 PM in the Town House Lunch Room.

Present were Carmin C. Reiss, Chair; Jeffrey Wieand, Clerk; Stanly E. Black, Steven Ng, and Elise F. Woodward. Also present was Christopher Whelan, Town Manager.

Ms. Reiss called the Meeting to Order.

Call to Order

Upon a motion duly made and seconded, by roll call the Board

VOTED: to go into Executive Session in the Town House lunch room to consider matters of Land Acquisition and collective Bargaining to return to Open Session.

Stanly E. Black	Aye
Steven Ng	Aye
Carmin C. Reiss	Aye
Jeffrey S. Wieand	Aye
Elise F. Woodward	Aye

At 7 PM Ms. Reiss called the meeting to order and announced that it is being recorded.

Call to Order

CONSENT AGENDA

Consent Agenda

- Town Accountant's Warrants
- One Day Special License: Wine & Malt Beverages License for Friends of the Performing Arts in Concord Waltz Night on January 12, 2013 at 51 Walden
- Alternate Managers of Record: Holder Inc. d/b/a Vincenzo's Pasta

Upon a Motion duly made and Seconded, the Board UNANIMOUSLY

VOTED: to approve the Consent Agenda as read.

TOWN MANAGER'S REPORT

Town Manager's Report

1. In light of the tragic school shootings in Newtown CT, the Police Department is working closely with the School Department to bolster security and assist families.
2. A 28-year-old Concord resident was struck by a train at Nashoba Rd. Investigation is ongoing.
3. CPW crews salted and sanded the roads on December 16th, but conditions were still slippery.
4. The recently completed Citizen Survey has demonstrated an uptick in favorability regarding Town services.
5. The Request for Proposals for the lease of the Visitors' Information and Restroom Facility on Main St. was opened. There was one response by the current vendor, the Concord Chamber of Commerce. Town Manager Douglas Meagher will work with the Chamber on a lease agreement.
6. The acquisition of the 51 Laws Brook Rd. property is complete. CPW will coordinate the asbestos abatement with demolition expected this winter. In the meantime, the Fire Department will use the structure to test smoke training with peer towns.
7. CMLP will work with Tecta, the most advantageous respondent to the RFP to reach an agreement regarding solar generation at the former landfill.
8. All are welcome to visit the holiday gingerbread house on display in the Library.

PUBLIC HEARING COLONIAL INN ALTER PREMISES

Alter Premises

Upon a Motion duly made and seconded, the Board UNANIMOUSLY

VOTED: to Open the Hearing.

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Jurgen Demisch was present to seek approval to alter the premises of the Merry Hill Corporation, d/b/a Colonial Inn, 48 Monument Square, to increase the maximum number of seats to 304 of which 64 may be on the front porch seasonally. Mr. Demisch stated that no other changes were being made. The packet was complete and reviewed by the Building Commissioner, Public Health Director, and Police Chief.

Discussion included: there will be no change to lighting; the outdoor area is set off by flower boxes and balusters so that diners may not wander into the public way with their alcoholic beverages; there have been no noise complaints, but they would be addressed immediately should they occur; the alterations will meet public convenience as many prefer to dine outdoors seasonally; no alcohol will be stored or served on the porch, but only by wait staff from the designated service area; the Inn is adding two additional Alternate Managers of Record; hours of service will remain those on the Alcoholic Beverages License. There was no public comment.

Upon a Motion duly made and seconded, the Board UNANIMOUSLY

VOTED: to Close the Hearing.

Upon a Motion duly made and seconded, the Board UNANIMOUSLY

VOTED: to grant the petition of Merry Hill Corporation d/b/a the Colonial Inn, Jurgen Demisch Manager, to alter the premises at 48 Monument Square such that there are a maximum of 304 seats in Merchant, Middlesex, Alcott, Thoreau, Prescott, Café, Forge, Liberty, and Tap rooms of which 64 may be moved to the front porch between April 1 and October 31. The front porch must be enclosed by a fence, rope, or other means and the licensee must have a view of the outside premises from inside; the Manager of Record must be present on the Licensed Premises for not less than 30 hours per week during the hours when Alcoholic Beverages are sold; an approved Alternate Manager of Record must be employed, all pending final approval by the ABCC.

CONSERVATION RESTRICTIONS

Natural Resources Director Delia Kaye was present with property owner Mark Carbeau to seek approval of a conservation restriction on a portion of 35 Macone Farm Lane. Ms. Kaye noted that originally there was one parcel and one CR planned in the development of a three-home subdivision. Now there are separate parcels -- #35, #57, and #79 Macone Farm Lane -- and each will have a CR on a portion of each property. This is the second CR and is on 1.85 acres adjacent to land restricted by Nashoba Brooks Schools, adjacent to the third CR, and provides access to Spencer Brook Valley. There is a deeded conservation access easement already recorded.

Discussion included: there is no public access within the proposed CR; access is through and along the access easement; the intent is to put a 25-foot no disturb zone adjacent to the wetlands on the property; it will also protect the open meadow habitat of the Nashoba Brooks land; wildlife habitat will be preserved in perpetuity under this CR.

Upon a Motion duly made and seconded, the Board UNANIMOUSLY

VOTED: to approve and sign a Conservation Restriction on 1.85 acres of land at 35 Macone Farm Lane (a portion of Assessor's Parcel No. 1984-6-2) from Cheryl Carbeau, granted on December 3, 2012 and accepted by the Natural Resources Commission, acting as a Conservation Commission on December 5, 2012, pursuant to Massachusetts General Laws, Sections 31 through 33 of Chapter 184.

Ms. Kaye was present with Judith Pickett, attorney for the landowners, to seek approval of a conservation restriction on 1.38 acres at 445 Lowell Rd. This CR is one of two required by the National Heritage and Endangered Species program to compensate for loss of habitat in a subdivision plan to create two single family homes and the demolition and reconstruction of the current single family home on the parcel. The CR does not provide public access, but it will

Conservation Re-
strictions

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preserve forested wetland and upland habitat. In order to begin the process, the bank is requiring a copy of the completed CR. The Natural Resources Commission has accepted the CR and is recommending Board approval contingent upon receipt of the Trustee's Certificate.

Ms. Pickett stated that she will hold off registering the CR until she can record all the CRs from 445 and 41A Lowell Road at the same time. The approved A&R has expired. In response to a question about the location of the structures to be constructed on 445 Lowell Rd., Ms. Pickett stated that the area of 445 closest to Lowell Rd and not subject to the CR will be where the three homes will be constructed on one-acre lots.

Upon a Motion duly made and seconded, the Board UNANIMOUSLY

VOTED: to approve and sign a Conservation Restriction on 1.38 acres of land at 445 Lowell Road (a portion of Assessor's Parcel 1670-1) from Amy L. Domini, Sole Trustee of the Brett Concord Nominee Realty Trust, granted on November 26, 2012 and accepted by the Natural Resources Commission, acting as a Conservation Commission, on December 5, 2012 pursuant to Massachusetts General Laws, Sections 31 through 33 of Chapter 184.

RESOLUTION RE SCHOOL COMMITTEE EXPENDITURE OF FUNDS FOR TRANSPORTATION FEASIBILITY STUDY

Resolution

Maureen Spada was present to seek approval of a Resolution in support of a feasibility study to investigate the feasibility of the former landfill as a school department transportation depot. Ms. Spada noted that pending the support of the Selectmen, the School Department will issue a Request for Proposals on December 27 with responses due January 11 regarding analysis of site use issues including an office, three-bay repair facility, parking, access from the public way, traffic impacts, vista, environmental, and geotechnical issues. Ms. Spada stated that the traffic impacts are not likely to be so significant as some have feared as buses arrive and leave in a staggered pattern starting before and ending after the commuter rush. Buses could "rest" at schools and avoid a return trip across Route 2.

Discussion included: why is the school department unsatisfied by the earlier support expressed by the Board; the study will be done at a cost of \$50,000 which is a significant investment; town and school acknowledge that there are several competing uses for the landfill including conservation and the Town-Meeting approved industrial scale solar installation; the results of the study will not predict the content of a Warrant Article or decision of Town Meeting; the outcome of the study will be a schematic design for the use of the site as a transportation depot; there are already many discussions of recommendations for the parcel, including in the Long Range Plan, Solar Siting Study, Public Works Commission report, the responses to the solar array RFP, and the work done on developing a landfill conservation restriction; a resolution seems unnecessary; support for information gathering in a feasibility study does not constitute endorsement of placement of a transportation depot on the site.

Upon a Motion duly made and seconded, the Board UNANIMOUSLY

VOTED: to concur with the School Committee decision to conduct a feasibility study of providing a transportation depot at the landfill.

PRELIMINARY 2014 BUDGET DISCUSSION

2014 Budget discussion

Christopher Whelan stated that the Finance Department memo highlights and summarizes the Town Manager's FY14 budget. It includes a general fund budget overview, a comparison of FY13 and FY14, and the draft budget warrant article.

Finance Director Tony Logalbo stated that the proposed Town Manager's budget conforms to the Finance Committee Guideline and includes a breakdown of operating and capital expenditures. There are increases in such areas as building maintenance, inspections, police and fire overtime, accounting, information systems, equipment maintenance, street lighting, and snow

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removal. Accounts that will decrease include: elections and public works equipment. Health insurance is level-funded. The next step in the budget process is the creation of the budget book in January.

Discussion included: Public Works plans to continue to irrigate playing fields; while street light fixtures are saving energy, the cost of energy has increased; additional hours are being requested for the Council on Aging and the Community Services Coordinator; funding for Animal Control will increase to meet the new legal requirements; the 4% increase in the Guideline is reasonable, but the Finance Committee goal is to lower the rate of growth long term; the actual increase to the taxpayer is less than 4% due to new growth; the Governor has indicated that he will make cuts of 1% to the State Budget in response to revenue shortfalls; this will include local aid, which will be a reduction of \$10,000 for Concord; in addition, SPED and Regional Transportation will be reduced; citizens of Town have indicated that they believe the Town does a good job with services.

PRELIMINARY REVIEW OF 2013 TOWN MEETING WARRANT

The 2013 Town Meeting Warrant will remain open until 4PM January 2. Petition articles regarding rescinding the bottle bylaw and a request for an administrative review of the school administration are anticipated, but have not been received at this point. The ordering and scheduling of the Warrant is the responsibility of the Board of Selectmen who invited Town Moderator Eric Van Loon to provide his input. Mr. Van Loon suggested that in addition to clustering like topics together, perhaps the Board would find value in scheduling zoning articles earlier in the deliberation as zoning has a permanent impact on the community and might be better discussed when voters are fresh. In his opinion, an effort should be made to keep voters engaged until the end and housekeeping articles should therefore not be placed at the end.

Discussion included: perhaps Town Meeting could start and end earlier or occur on a weekend; thoughtful discussion will expand to fill the time available; it is hard to order the Warrant articles without any petition articles in hand; perhaps articles like land acquisition should be at the end of the Warrant; the articles relevant to the landfill should be clustered; depending upon the outcome of the transportation study; the school committee will decide how to fund implementation; the Town owns and controls the landfill and does not anticipate an article to subdivide the property; an extended discussion on the budget is preferred; petition article ordering will be discussed on January 7 before the Warrant goes to the printer; zoning articles and rescinding the bottle bylaw could easily be taken up on the same evening.

It was the consensus of the Board that zoning articles should be sequenced together between Articles 28 and 29; Articles 30, 33, & 37 should be clustered; street acceptance articles should be linked to the roads program article for convenience of members; petition articles should be clustered as closely as possible to similar issues; a joint discussion of all landfill issues should occur before a vote on any; Articles 8, 10, & 36 should come in order after 18; rescinding the bottle bylaw and consideration of other zoning amendments should be scheduled on same night; Article 16 should be on the consent agenda.

CONCORD ON TAP INITIATIVE

Jill Appel, one of the petitioners of Article 32 to ban the sale of single serve plastic water bottles, was present to update the Board on activities in Town to adapt to the bylaw. Ms. Appel stated that she has contacted merchants about refillable BPA-free water bottles and several have agreed to sell them to the public. Her organization has created a tri-fold brochure and map to alert visitors and residents to the location of public water taps. Some merchants have agreed to make water taps available. More information is available on the organization website. Ms. Appel stated that funding for the project has been provided by a grant from New England Grassroots Environmental Fund and the Camelback company. She stated that the water bottling industry has been a presence in Town in opposition to the bylaw. She hopes not to need to go back to Town meeting again on this topic.

UPDATE ON PET WATER BOTTLE ENFORCEMENT

Town Meeting Warrant

Concord on Tap

PET bottles

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Town Manager Chris Whelan stated that he had arranged a meeting with local merchants to update them on the implementation of the ban on sales of single-serve plastic water bottles that begins on January 1. His message to them was that the ban would be enforced. The Health Department will respond to complaints and will issue warnings followed by a ticket if sales continue. In his opinion, litigation is unlikely to delay implementation and enforcement.

CITIZEN PETITION RE WATER BOTTLE ENFORCEMENT

Mr. Whelan stated that the Board had received a request to schedule a hearing on suspension of enforcement of the ban on sale of single serve plastic water bottles due to the likely cost of enforcement. Discussion included: the petition was sponsored and obtained by parties outside the Town; residents who signed the petition provided an avenue for bottling interests to collect information on them; a Hearing only makes sense regarding the escape clause of the bylaw which addresses litigation; in the absence of litigation there is no expense; the ban was approved by Town Meeting after several years of discussion regarding health and emergency impacts, and sugary drinks, and the Board cannot substitute its judgment for that of Town Meeting; in the absence of compelling costs or emergency, the escape clause has not been triggered; the bylaw has been deemed valid by the Attorney General and only Town Meeting can act to change it, not the Board acting unilaterally.

Citizen Petition

LOCAL OPTION LOCAL INCOME TAX COMMITTEE LEGISLATION LANGUAGE

The Board reviewed the updated language proposed by the Local Option Local Income Tax Committee regarding a Home Rule Petition to offset a portion of the local property tax collection with a local income tax. It is hoped that Representative Atkins and/or Senator Barrett would file this petition in January. Upon positive action by the legislature, to enable this option Town Meeting would need to reapprove this action by a $\frac{2}{3}$ majority as well as prevailing at the ballot. In the absence of legislative action, the Local Option Local Income Tax Committee envisions making a report to Town Meeting.

LOLIT legislation

Upon a motion duly made and seconded, the Board UNANIMOUSLY

VOTED: to sponsor the Home Rule Petition regarding Local Income Tax as written.

ANNUAL RELICENSING

Upon a motion duly made and seconded, the Board UNANIMOUSLY

VOTED: to approve the nine All Alcoholic Beverages Restaurant Common Victualler Licenses
to approve the four Wine & Malt Restaurant Common Victualler Licenses
to approve the one All Alcoholic Innholder License
to approve three All Alcoholic Club Licenses
to approve the one Wine & Malt Club License
to approve the four All Alcoholic Retail Package Store Licenses
to approve the four Wine & Malt Retail Package Store Licenses
VOTED: to approve the 12 Class II Used Car Dealer's Licenses
VOTED: to approve the 40 Common Victualler Licenses
VOTED: to approve the two Innholder Licenses
VOTED: to approve the two Lodging House Licenses
VOTED: to approve the three Livery Licenses
VOTED: to approve the one Common Carrier License
VOTED: to approve the six Weekday Entertainment Licenses

Relicensing

CITIZEN COMMENT

Michael Rudd of Barrett's Mill Rd. stated that the notion of Town Meeting on a weekend was defeated ten years ago. He encouraged the Board to reconsider this for certain articles of wider interest.

Citizen Comment

COMMITTEE LIAISON REPORTS

Liaison Reports

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Mr. Black stated that he will attend the Planning Board Meeting where zoning article will be discussed. He will update the Board.

Ms. Woodward stated that the High School Building Committee reviewed interior material finishes, sections of the building, and interior renderings with the design team. She noted that the presentation was compelling; finishes were beautiful with recycled content and environmental sustainable components. The information is available on the Building Committee website.

Ms. Woodward reported that the Community Preservation Committee made its recommendations for funding, amongst them \$800,000 for the Town House Brownstone restoration.

Ms. Woodward reported that HATS met in Concord recently and was attended by Senator-elect Barrett. The meeting discussed the Lt. Governor's Strategic Asset Management Task Force to be prepared for reorganization at Hanscom Air Force Base. She stated that she also attended the dedication of the Joint Forces Headquarters Building of the National Guard. At 370 years old, the MA National Guard is the oldest in the country.

Ms. Woodward attended the meeting of the Comprehensive Sustainable Energy Committee, which is working on formulating goals for the coming year. CSEC need additional members.

Ms. Reiss stated that she attended the School Committee meeting at which it was reported that a \$9MM Bond Anticipation Note was sold at 0.24% interest.

Ms. Reiss attended the Finance Committee meeting at which there was a discussion of 5-year projections. The Committee is thinking about whether to continue or to revamp the process. They intend to do outreach to determine whether any budgeting entity has used the projections.

Ms. Reiss attended the Minuteman Regional Vocational Technical High School Building Committee meeting at which there was a presentation by the Owner's Project Manager, Skanska, which is very well organized and about ready to advertise a Request for Services for designers to undertake the feasibility study. In its opinion, the budget appears to be adequate to get the job done, notwithstanding the fact that there are now two enrollment numbers to consider. Information will be available on the website soon.

MISCELLANEOUS/CORRESPONDENCE

1. Ms. Woodward reported that MPO wants to confirm Concord's TIP contact. Mr. Whelan stated that it will continue to be Public Works Director Rich Reine.
2. Mr. Black stated that the Volunteer Handbook is ready to go to the printer. Mr. Black recommended that committee liaisons contact their committees and prompt them to make submittals on time.
3. Mr. Black stated that he has been getting enquiries about additional alcoholic beverage licenses. This is a complex issue based on population. Ms. Reiss stated that initially the Board supported one additional license and then received requests for others. That caused research into the maximum number of licenses available to the Town. With that information in hand, the Board can make sensible decisions. Town Counsel will render an opinion on how to proceed. There is a placeholder in the Warrant to address this without inserting a number.
4. Mr. Black stated that Jim White at Millbrook Tarry has made a request for zoning articles regarding development of that parcel. In his opinion, Mr. Black believes this is too early in the process and is one of the things he will be discussing with the Planning Board. The Board was not supportive of the notion of creating a Special Town Meeting within Annual Town Meeting to give more time for the process to develop.
5. Mr. Black asked what the impact would be on school transportation if Town Meeting approves a conservation restriction instead of a school transportation depot. Would they need to fund a study of school department land? Mr. Wieand stated that the school committee could extend its temporary solution the full three years without further study.

Misc./Correspond.

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COMMITTEE APPOINTMENTS/REAPPOINTMENTS

Upon a Motion duly made and Seconded, the Board UNANIMOUSLY

VOTED: to appoint Dudley Goar of 40 Upland Road and Susan Macone of 94 Fitchburg Turnpike to the Agriculture Committee as full members for terms to expire May 1, 2015; Brian Cramer of 820 Monument St. to the Agriculture Committee as an associate member for a term to expire May 31, 2015.
To reappoint Dennis Fiori of 309 Strawberry Hill Rd as full member and Elizabeth Roosa of 394 Strawberry Hill Rd as associate member to the Historic Districts Commission representing the Library for terms to expire January 1, 2018.

Appt./Re-appt.

ADJOURNMENT

On a motion duly made and seconded, it was:

VOTED: To adjourn the Open Session and to conclude business for the evening.

Adjourn

Stanly E. Black	Aye
Steven Ng	Aye
Carmin C. Reiss	Aye
Jeffrey S. Wieand	Aye
Elise F. Woodward	Aye

The meeting adjourned at 9:20 p.m.

Respectfully submitted,

Jeffrey S. Wieand, Clerk